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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,567	09/15/2003	John Dennis Clark	BRADBURY/10003	9742

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EXAMINER

CRANE, DANIEL C

ART UNIT PAPER NUMBER

3725

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

E

Office Action Summary	Application No.	Applicant(s)	
	10/662,567	CLARK, JOHN DENNIS	
	Examiner	Art Unit	
	Daniel C. Crane	3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2005.
 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38,39,41-47,49-55,57-86 and 88-117 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 38,39,41-47,49-55,57-86 and 88-117 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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REJECTION OF CLAIMS OVER FORMAL MATTERS

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 38-47, 49-55, 57-71 and 77-84 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The original disclosure and original claims fail to specify the actual measurement of the “wave height of the material” as claimed in claims 38, 46, 54, 61 and 77 and those claims depending therefrom. As detailed on pages 19 and 20 of the original disclosure, paragraphs [0055] and [0056], the distance sensors 1102-1108 shown in Figure 11 are calibrated to detect material conditions as deviations from a known flat condition. Accordingly, the sensed readings are obtained from a reference plane, which does not necessarily provide specific readings of the “wave height” but could just as readily be obtaining readings of distances measured between the material deviation and the position of the sensor. Accordingly, it is maintained that the disclosure does not provide enough details to explicitly glean that the sensed conditions are those of a “wave height of the material”. New matter is being incorporated within the specification.

REJECTION OF CLAIMS OVER PRIOR ART

Claims 61-63, 69, 70, 72, 74, 75, 77, 79- 82, 84, 92, 96-98, 101, 103, 104, 108 and 109 are rejected under 35 U.S.C. 102(b) as being anticipated by Jeuniaux (5,465,214). Jeuniaux makes evident at column 2, lines 28-40, that it is well known in this art that the wave height of the material can be used to determine any deviation in the fed material. Using this information, the defects in the material can be removed. Note that Jeuniaux states that in the Prior Art, “the height of the fiber to their vertical” can be used in the shaping of material. Accordingly, Jeuniaux recognizes within the prior art that the wave height of the material is used to determine the characteristics of the material prior to activating the leveling operation. Further, with respect to Jeuniaux’ invention, Figures 1 and 2 show where a plurality of sensor readings in the form of deviations is obtained by a plurality of laser mechanisms 8 arranged along the width of the material 3. These sensed readings provide heights of the material relative to a reference plane (see column 5, lines 34-47 and 56-60, and the last paragraph of column 6). Deviations are obtained in light of the fact that the measurements are taken from a distance away from the material to the material and determined relative to the reference surface Ox (Figure 2). Planarity is determined and the leveler is adjusted to correct the defects in the sheet material.

Claims 38, 39, 41-47, 49-55, 57-60, 64-68, 71, 73, 76, 78, 83, 85, 86, 88-91, 93, 94, 95, 99, 100, 102, 105-107 and 110-117 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jeuniaux (5,465,214). The comments set forth in the preceding paragraph are incorporated herein. While Jeuniaux does not obtain the travel length of the material as the material moves, Jeuniaux does obtain the speed of the material and correlates that with the distance readings. In

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this regard, the speed-reading and the length reading are comparable as both of the sensed conditions are used to provide a location of the condition of the material and any non-planarity sensed in the material. Accordingly, it would have been obvious to the skilled artisan at the time of the invention to have modified Jeuniaux' machine by using a length measurement instead of a speed measurement to specify a location on the material. Such would have been a matter of preference and dictated by cost and hardware availability. Further, because of the equivalent information being obtained and the identical result acquired, i.e., location on a moving material, this is considered obvious to the skilled artisan having the level of skill within the computer controlled rolling art. Since a flatness or planarity of the material is being obtained, a "certification level" of the material is obtained. Topographical information is determined because the curvature of the material is sensed.

RESPONSE TO APPLICANT'S COMMENTS

Applicant has failed to specifically point out how the claims define over the Jeuniaux teaching. Applicant has merely pointed to the broad independent claims and noted that the language therein defines over the art followed by a discussion of each claims difference.

With regard to claim 61 and those claims depending therefrom, Jeuniaux teaches that the prior art uses a "wave height" or "height of the fiber in the vertical" to ascertain the deviations of the material during processing (see column 2, second full paragraph). Furthermore, it is maintained that using the wave height or the height relative to a reference plane gives the same result because the difference in the heights will be ultimately calculated within the system and these differences would be the same.

As to claim 72 and those claims depending therefrom, this claimed provision is clearly taught by Jeuniaux because the first sensor 5 and second sensor 6 are shown in Figure 1 to be located elevated from the reference plane xOy at identical heights.

As to claim 77 and those claims depending therefrom, the first wave height value is determined by the sensor 5 and the second wave height value is obtained by sensor 6 and it is these readings that are used within Jeuniaux' calculations to determine the variation in configuration of the wave of the material. Accordingly, Claim 77 is met by Jeuniaux.

As to claim 92 and those claims depending therefrom, Jeuniaux provides sensors 5, 6 and 7 that detect a "height value" and it is these height values that are plugged into equations as set out at column 5, lines 33-60, that will provide the comparison between these heights and facilitate the adjustment of the rolls to remedy the deviations in the material. Accordingly, a comparison between the height values is indirectly obtained and through the use of these height values the operation of the leveler is controlled.

The above argument relating to claim 92 applies to claims 101 and 109 and their depending claims because it is the deviation values that are used within the calculations that ultimately determine the comparison between the regions of the deviations and allow for the adjustment of the leveler.

The remaining independent claims, i.e., claims 38, 46, 54, 85 and 113 are also met by Jeuniaux under 35 USC 103 because the detection of the speed of the material to obtain a location is considered an equivalent reading to the actual detection of the length of the material during the height sensing operation. Because of this equivalency, it is maintained that the skilled

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artisan having the benefit of the Jeuniaux teaching would have merely been made based upon hardware availability. Applicant has not shown that this gives any unexpected result.

FINAL OFFICE ACTION

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

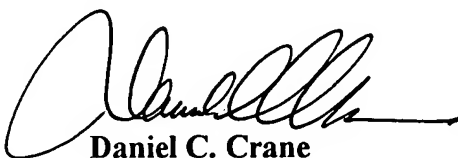
INQUIRIES

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner D. Crane whose telephone number is **(571) 272-4516**. The examiner's office hours are 6:30AM-5:00PM, Tuesday through Friday. The examiner's supervisor, Mr. Derris Banks, can be reached at **(571) 272-4419**.

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Documents related to the instant application may be submitted directly to Group 3700 by facsimile transmission at all times. Applicant(s) is(are) reminded to clearly mark any transmission as "DRAFT" if it is not to be considered as an official response. The Group 3725 Facsimile Center number is (571) 273-8300. The examiner's FAX no. is (571) 273-4516.

DCCrane
January 21, 2006

A handwritten signature in black ink, appearing to read 'Daniel C. Crane', with a large, stylized initial 'D'.

Daniel C. Crane
Primary Patent Examiner
Group Art Unit 3725